

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUXOTTICA OF AMERICA INC.

Petitioner,

v.

E-VISION OPTICS, LLC¹

Patent Owner.

Case No. IPR2024-01072

Patent No. 10,598,960

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
SUBMITTED BY PETITIONER**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

¹ Patent Owner notes that the Board has instructed the parties to use this case style (Paper 12 at 1 n.1). In accordance with the Board's instructions, Patent Owner will request a conference with the Board regarding correction to the style, in order to reflect the correct entities in this case going forward.

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner e-Vision Smart Optics, Inc. (“e-Vision”)² objects to the following exhibits filed by Petitioner Luxottica of America Inc. (“Luxottica”) with the petition (Paper No. 1).

Exhibit No.	Objection(s)
1002	FRE³ 106: The file history submitted by Luxottica is a partial file history that does not contain all of the same documents as the certified file history, which e-Vision served on Luxottica in the co-pending litigation.
1003	FRE 702/703 and 37 C.F.R. § 42.65: Improper expert testimony to the extent it does not rely on the kind of facts or data experts in the relevant field would reasonably rely upon. Improper expert testimony to the extent the underlying facts or data on which the opinion is based are not provided. FRE 701: Improper lay testimony to the extent testimony is offered outside of John Feland’s areas of expertise or fails to disclose the underlying facts or data on which the opinion is based. Additionally, e-Vision objects to this testimony to the extent that it incorporates or cites inadmissible exhibits to which e-Vision has objected herein or on which an expert in the field would not reasonably rely.
1004	FRE 801/802: To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay that does not fall under any exception.

² These objections are filed on behalf of the correct patent owner, e-Vision Smart Optics, Inc., although the caption identifies the patent owner as e-Vision Optics, LLC, in accordance with the Board’s instructions.

³ Federal Rule of Evidence.

Exhibit No.	Objection(s)
	FRE 901/902: This exhibit has not been properly authenticated because Petitioner has not presented sufficient evidence that the document is authentic or that the document is self-authenticating.
1011	FRE 401/402: Petitioner fails to establish its relevance to POSITA's knowledge as of the time of the invention, or to whether a POSITA would have considered any challenged claim of the '960 patent obvious in view of the prior art as of the '960 patent's priority date. FRE 801/802: To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay that does not fall under any exception. FRE 901/902: This exhibit has not been properly authenticated because Petitioner has not presented sufficient evidence that the document is authentic or that the document is self-authenticating.
1014	FRE 401/402: Petitioner fails to establish its relevance to POSITA's knowledge as of the time of the invention, or to whether a POSITA would have considered any challenged claim of the '960 patent obvious in view of the prior art as of the '960 patent's priority date. FRE 801/802: To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay that does not fall under any exception. FRE 901/902: This exhibit has not been properly authenticated because Petitioner has not presented sufficient evidence that the document is authentic or that the document is self-authenticating.
1021	FRE 401/402: Petitioner fails to establish its relevance to POSITA's knowledge as of the time of the invention, or to whether a POSITA would have considered any challenged claim of the '960 patent obvious in view of the prior art as of the '960 patent's priority date.

Exhibit No.	Objection(s)
	FRE 801/802: To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay that does not fall under any exception. FRE 901/902: This exhibit has not been properly authenticated because Petitioner has not presented sufficient evidence that the document is authentic or that the document is self-authenticating.
1022	FRE 401/402: Petitioner fails to establish its relevance to POSITA's knowledge as of the time of the invention, or to whether a POSITA would have considered any challenged claim of the '960 patent obvious in view of the prior art as of the '960 patent's priority date. FRE 801/802: To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such contents as inadmissible hearsay that does not fall under any exception. FRE 901/902: This exhibit has not been properly authenticated because Petitioner has not presented sufficient evidence that the document is authentic or that the document is self-authenticating.

Respectfully submitted,

KING & SPALDING LLP

BY: /Brian Eutermoser/

Brian Eutermoser (Reg. No. 64,058)

*Attorney for Patent Owner
e-Vision Smart Optics, Inc.*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED BY PETITIONER** was served by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS) as well as by delivering a copy via electronic mail on January 15, 2025, in the entirety on the following:

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